

109TH CONGRESS
2D SESSION

S. _____

To amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pet Animal Welfare
5 Statute of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 (a) IN GENERAL.—Section 2 of the Animal Welfare
8 Act (7 U.S.C. 2132) is amended—

9 (1) by striking subsection (f) and inserting the
10 following:

1 “(5) DEALER.—

2 “(A) IN GENERAL.—The term ‘dealer’
3 means any person who, in commerce, for com-
4 pensation or profit, delivers for transportation,
5 or transports, except as a carrier, buys, or sells,
6 or negotiates the purchase or sale of—

7 “(i) any dog or cat (whether alive or
8 dead) at wholesale or to the public;

9 “(ii) any dog or cat imported into the
10 United States for resale; or

11 “(iii) any other animal (as defined in
12 this Act) at wholesale.

13 “(B) EXCEPTIONS.—The term ‘dealer’
14 does not include—

15 “(i) a retail pet store, except for a re-
16 tail pet store that sells—

17 “(I) any animal to a research fa-
18 cility, an exhibitor, or a dealer; or

19 “(II) any dog or cat imported
20 into the United States directly by the
21 retail pet store;

22 “(ii) any animal shelter, rescue orga-
23 nization, or other person not selling dogs
24 or cats imported into the United States for
25 resale that does not operate for profit;

1 “(iii) any person that during any cal-
2 endar year derives not more than \$2,500
3 gross income from the sale at wholesale of
4 animals (as defined in this Act) other than
5 dogs and cats; or

6 “(iv) any person that—

7 “(I) sells dogs and cats only at
8 retail;

9 “(II) does not import dogs and
10 cats for resale; and

11 “(III)(aa) sells not more than the
12 total number of dogs and cats de-
13 scribed in subparagraph (C); or

14 “(bb) in accordance with regula-
15 tions promulgated by the Secretary, is
16 determined to be in compliance with
17 the standards of a third-party inspec-
18 tor certified under section 16(d).

19 “(C) DESCRIPTION.—The number of dogs
20 and cats referred to in subparagraph
21 (B)(iv)(III)(aa) is not more than—

22 “(i) a total of 25 dogs and cats not
23 bred or raised on the premises of the seller
24 during a calendar year; or

1 “(ii)(I) the number of dogs and cats
2 bred or raised during a calendar year on
3 the premises of the seller and sold directly
4 at retail to persons who purchase the dogs
5 and cats for personal use and enjoyment
6 and not for resale, provided that the total
7 number sold during a calendar year is not
8 more than the greater of 25 dogs and cats
9 or the dogs and cats from not more than
10 6 litters; and

11 “(II) a total of 25 other dogs and cats
12 not bred or raised on the premises of the
13 seller during the calendar year.”;

14 (2) in subsection (g), by striking “With respect
15 to a dog” and all that follows through the end; and

16 (3) by adding at the end the following:

17 “(14) RETAIL.—The term ‘retail’ means any
18 sale that is not at wholesale.

19 “(15) RETAIL PET STORE.—

20 “(A) IN GENERAL.—The term ‘retail pet
21 store’ means a retail business establishment
22 that—

23 “(i) maintains a physical premises
24 that is open to the public; and

1 “(ii) sells pet animals directly to the
2 public from the retail business premises.

3 “(B) EXCLUSION.—The term ‘retail pet
4 store’ does not include—

5 “(i) a person breeding dogs or cats to
6 sell at wholesale or to the public; or

7 “(ii) a person importing dogs or cats
8 from outside the United States for resale.

9 “(16) WHOLESALE.—The term ‘wholesale’
10 means the sale of an animal for resale.”.

11 (b) TECHNICAL AMENDMENTS.—Section 2 of the
12 Animal Welfare Act (7 U.S.C. 2132) (as amended by sub-
13 section (a)) is amended—

14 (1) in the matter before subsection (a), by
15 striking “When used in this Act—” and inserting
16 “In this Act:”;

17 (2) by moving subsections (a) through (o) and
18 paragraphs (5), (14), (15), and (16) so that the
19 terms defined in the section are in alphabetical
20 order;

21 (3) by striking the semicolon at the end of each
22 subsection that ends in a semicolon and inserting a
23 period;

24 (4) by redesignating subsections (a) through (o)
25 as paragraphs and any paragraphs within those sub-

1 sections as subparagraphs, and indenting appro-
2 priately;

3 (5) in each paragraph (as redesignated by para-
4 graph (4)) that does not have a heading, by insert-
5 ing a heading, in the same style as the heading in
6 the amendment made by subsection (a)(1), the text
7 of which is comprised of the term defined in the
8 paragraph; and

9 (6) in paragraph (4) (as so redesignated) (relat-
10 ing to the definition of “Committee”), by striking “;
11 and” and inserting a period.

12 (c) REGULATIONS.—Not later than 36 months after
13 the date of enactment of this Act, the Secretary shall pro-
14 mulgate final regulations to carry out the amendment
15 made by subsection (a)(1)).

16 (d) EFFECTIVE DATE.—The amendment made by
17 subsection (a)(1) takes effect on the date on which final
18 regulations described in subsection (c) take effect.

19 **SEC. 3. ACCESS TO SOURCE RECORDS FOR DOGS AND**
20 **CATS.**

21 Section 10 of the Animal Welfare Act (7 U.S.C.
22 2140) is amended—

23 (1) in the first sentence, by inserting “(a) IN
24 GENERAL.—” before “Dealers”; and

25 (2) by adding at the end the following:

1 “(b) ACCESS TO SOURCE RECORDS FOR DOGS AND
2 CATS.—Notwithstanding any other provision of this Act,
3 all dealers and retail pet stores shall prepare, retain, and
4 make available at all reasonable times for inspection and
5 copying by the Secretary, for such reasonable period of
6 time as the Secretary may prescribe, a record of—

7 “(1)(A) the name and address of the person
8 from whom each dog or cat acquired for resale was
9 purchased or otherwise acquired; or

10 “(B) if that information is not known, the
11 source of the dog or cat; and

12 “(2) if the person from whom the dog or cat
13 was obtained is a dealer licensed by the Secretary,
14 the Federal dealer identification number of the per-
15 son.”.

16 **SEC. 4. INVESTIGATIONS AND INSPECTIONS.**

17 (a) IN GENERAL.—Section 16 of the Animal Welfare
18 Act (7 U.S.C. 2146) is amended by adding at the end the
19 following:

20 “(d) THIRD-PARTY INSPECTORS.—

21 “(1) REGULATIONS.—

22 “(A) IN GENERAL.—Not later than 36
23 months after the date of enactment of this sub-
24 section, the Secretary shall promulgate regula-
25 tions under which the Secretary may certify

1 nonprofit organizations (referred to in this sub-
2 section as ‘certified third-party inspectors’) that
3 the Secretary determines to have standards and
4 inspection protocols that are at least as protec-
5 tive of animal welfare as those promulgated by
6 the Secretary in accordance with section
7 13(a)(2).

8 “(B) REQUIREMENTS.—Regulations pro-
9 mulgated under subparagraph (A) shall—

10 “(i) require each certified third-party
11 inspector to be recertified not less than
12 once every 3 years;

13 “(ii) establish procedures under which
14 the Secretary may decertify a certified
15 third-party inspector in any case in which
16 the Secretary determines that the certified
17 third-party inspector failed to maintain
18 standards and inspection protocols that are
19 at least as protective of animal welfare as
20 those promulgated by the Secretary in ac-
21 cordance with section 13(a)(2);

22 “(iii) require each certified third-party
23 inspector to immediately notify the Sec-
24 retary of any person inspected by the cer-
25 tified third-party inspector—

1 “(I) whose conduct places the
2 health of an animal in imminent dan-
3 ger; or

4 “(II) who otherwise fails to com-
5 ply with the standards established by
6 the inspector (including a description
7 of the specific failure);

8 “(iv) require each certified third-party
9 inspector to submit to the Secretary an an-
10 nual summary report describing—

11 “(I) the number of inspections
12 conducted;

13 “(II) the number of persons
14 found to be out-of-compliance with the
15 standards of the certified third-party
16 inspector and the response actions
17 taken;

18 “(III) the types of non-compli-
19 ance found; and

20 “(IV) such other information
21 about the program of the certified
22 third-party inspector as the Secretary
23 shall require, without revealing per-
24 sonal information about inspected per-
25 sons, to ensure that the program of

1 the third-party inspector is maintain-
2 ing standards and inspection protocols
3 that are at least as protective of ani-
4 mal welfare as those promulgated by
5 the Secretary in accordance with sec-
6 tion 13(a)(2);

7 “(v) establish procedures for compli-
8 ance audits of third-party inspectors, in-
9 cluding procedures under which each cer-
10 tified third-party inspector shall make
11 available for inspection by the Secretary
12 any documents and records of the inspec-
13 tion program of the certified third-party
14 inspector necessary for the Secretary to
15 audit the performance of the certified
16 third-party inspector; and

17 “(vi) establish procedures under which
18 the Secretary may require certified third-
19 party inspectors to participate in training
20 and education programs carried out
21 through the Animal and Plant Health In-
22 spection Service.

23 “(2) INSPECTIONS.—

24 “(A) IN GENERAL.—In accordance with
25 regulations promulgated by the Secretary, a

1 dealer in dogs and cats may elect to have a cer-
2 tified third-party inspector inspect the dealer in
3 lieu of inspection by the Secretary.

4 “(B) THIRD-PARTY INSPECTIONS OP-
5 TIONAL.—No dealer shall be required under
6 this Act to be inspected by a certified third-
7 party inspector.

8 “(3) ENFORCEMENT.—

9 “(A) IN GENERAL.—The Secretary shall
10 have exclusive enforcement authority over any
11 violation of this Act.

12 “(B) INITIATION OF ACTION.—The Sec-
13 retary shall investigate and, if appropriate, ini-
14 tiate enforcement action under this Act, imme-
15 diately upon receiving notification under para-
16 graph (1)(B)(iii).

17 “(4) USE OF APPROPRIATED FUNDS.—

18 “(A) IN GENERAL.—The Secretary may
19 use funds appropriated to the Department of
20 Agriculture to carry out this subsection.

21 “(B) PROHIBITION.—A certified third-
22 party inspector may not use funds appropriated
23 to Department of Agriculture.”.

24 (b) CONFORMING AMENDMENT.—Section 3 of the
25 Animal Welfare Act (7 U.S.C. 2133) is amended—

1 (1) in the first sentence, by striking “The Sec-
2 retary” and inserting the following:

3 “(a) IN GENERAL.—Subject to subsection (b), the
4 Secretary”; and

5 (2) by striking “section 23 of this Act” and all
6 that follows and inserting the following: “section 23.

7 “(b) REQUIREMENTS.—The Secretary shall not issue
8 a license under subsection (a) until the dealer or exhibi-
9 tor—

10 “(1) has demonstrated that the facilities of the
11 dealer or exhibitor comply with standards promul-
12 gated by the Secretary in accordance with section
13 13; or

14 “(2) if the dealer or exhibitor deals in dogs or
15 cats, has demonstrated in accordance with regula-
16 tions promulgated by the Secretary that the facilities
17 of the dealer or exhibitor comply with standards es-
18 tablished by a third-party inspector certified under
19 section 16(d).”.

20 **SEC. 5. EXTENSION OF TEMPORARY SUSPENSION PERIOD.**

21 Section 19(a) of the Animal Welfare Act (7 U.S.C.
22 2149) is amended—

23 (1) by inserting “(1)” after “(a)”; and

24 (2) by adding at the end the following:

1 “(2) EXTENSION OF TEMPORARY SUSPENSION PE-
2 RIOD.—If the Secretary has reason to believe that a viola-
3 tion that results in a temporary suspension pursuant to
4 paragraph (1) is continuing or will continue after the expi-
5 ration of the 21-day temporary suspension period de-
6 scribed in that paragraph, and the violation will place the
7 health of any animal in serious danger in violation of this
8 Act, the Secretary may extend the temporary suspension
9 period for such additional period as is necessary to ensure
10 that the health of an animal is not in serious danger, as
11 determined by the Secretary, but not to exceed 60 days.”.

12 **SEC. 6. IMPORTATION OF LIVE DOGS AND CATS BY REGU-**
13 **LATED PERSONS.**

14 The Animal Welfare Act is amended by adding after
15 section 19 (7 U.S.C. 2149) the following:

16 **“SEC. 20. IMPORTATION OF LIVE DOGS AND CATS BY REGU-**
17 **LATED PERSONS.**

18 “(a) FINDINGS.—Congress finds that—

19 “(1) regulating imports of dogs and cats for re-
20 sale, including restricting importation of puppies and
21 kittens for resale, is consistent with provisions of
22 international agreements to which the United States
23 is a party that expressly allow for measures that are
24 necessary—

25 “(A) to protect animal life or health; and

1 “(B) to enjoin the use of deceptive trade
2 practices in international and domestic com-
3 merce;

4 “(2) the importation of puppies into the United
5 States for resale is increasing;

6 “(3) the breeding of puppies in foreign coun-
7 tries for resale in the United States creates opportu-
8 nities and incentives for evasion of United States
9 laws (including regulations) relating to the humane
10 care and treatment of canine breeding stock and
11 puppies;

12 “(4) the conditions under which puppies are
13 transported into the United States for resale are fre-
14 quently inhumane and in violation of domestic and
15 international standards;

16 “(5) there is an unacceptably high incidence of
17 disease and death among puppies imported into the
18 United States for resale;

19 “(6) the importation of puppies for resale cre-
20 ates unacceptable incentives for evasion of United
21 States laws (including regulations) intended to pro-
22 tect animal and human health in the United States,
23 including quarantine regulations; and

24 “(7) puppies imported for resale may be accom-
25 panied by fraudulent health and breeding docu-

1 ments, imposing high economic and emotional costs
2 and fraud on United States citizens.

3 “(b) DEFINITION OF REGULATED PERSON.—The
4 term ‘regulated person’ has the same meaning as the term
5 ‘dealer’, except that the term also includes any person that
6 imports into the United States any live dog or cat for re-
7 sale.

8 “(c) ENFORCEMENT.—A regulated person that fails
9 to comply with any Federal law (including a regulation)
10 relating to the importation of live dogs and cats into the
11 United States shall be subject to this Act, including pen-
12 alties under section 19.

13 “(d) REGULATIONS.—Not later than 36 months after
14 the date of enactment of this section, the Secretary, in
15 consultation with the Secretary of Health and Human
16 Services, the Secretary of Commerce, and the Secretary
17 of Homeland Security, shall promulgate regulations relat-
18 ing to the importation of live dogs and cats into the United
19 States for resale.

20 “(e) REQUIREMENTS.—Regulations promulgated
21 under subsection (d) shall require that dogs imported into
22 the United States for resale—

23 “(1) be not less than 6 months of age;

24 “(2) have received all necessary vaccinations, as
25 determined by the Secretary; and

1 “(3) be in good health, as determined by the
2 Secretary.”.

3 **SEC. 7. AUTHORITY TO APPLY FOR INJUNCTIONS.**

4 Section 29 of the Animal Welfare Act (7 U.S.C.
5 2159) is amended—

6 (1) in subsection (a), by inserting “or that any
7 person is acting as a dealer or exhibitor without a
8 valid license that has not been suspended or revoked,
9 as required by this Act,” after “promulgated there-
10 under,”;

11 (2) in subsection (b), by striking the last sen-
12 tence; and

13 (3) by adding at the end the following:

14 “(c) INJUNCTIONS; REPRESENTATION.—

15 “(1) INJUNCTIONS.—The Secretary may apply
16 directly to the appropriate United States district
17 court for a temporary restraining order or injunction
18 described in subsection (a).

19 “(2) REPRESENTATION.—Attorneys of the De-
20 partment of Agriculture may represent the Secretary
21 in United States district court in any civil action
22 brought under this section.”.

23 **SEC. 8. EFFECT ON STATE LAW.**

24 Nothing in this Act or the amendments made by this
25 Act (including any regulations promulgated as a result of

- 1 this Act) preempts any State law (including a regulation)
- 2 that provides stricter requirements than the requirements
- 3 provided in the amendments made by this Act.